

**UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CASE NO. 3:07-cv-253-RJC-DCK**

**EVANGELINE SMITH,**

**Plaintiff,**

**vs.**

**MICHAEL J. ASTRUE,  
COMMISSIONER OF SOCIAL  
SECURITY,**

**Defendant.**

**ORDER**

**THIS MATTER** is before the Court on cross Motions for Summary Judgment (Doc. Nos. 20, 22). The Magistrate Judge entered a Memorandum and Recommendation (“M&R”) (Doc. No. 24), recommending that the Court deny Plaintiff’s motion, grant Defendant’s motion, and uphold the Commissioner’s decision denying benefits. The parties were advised that objections were to be filed in writing within ten (10) days after service of the Magistrate Judge’s decision. (Doc. No. 24 at 12). The time for filing objections has since passed and no objections have been filed by either party in this matter. For the reasons stated below, the Court **DENIES** Plaintiff’s motion, **GRANTS** Defendant’s motion, and upholds the Commissioner’s decision .

**I. STANDARD OF REVIEW**

The Federal Magistrate Act provides that a district court “shall make a de novo determination of those portions of the report or specific proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C); Camby v. Davis, 718 F.2d 198, 198 (4th Cir. 1983). “By contrast, in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in

order to accept the recommendation.”” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

## II. CONCLUSION

Accordingly, after a careful review of the record in this case, the Court finds that the Magistrate Judge’s findings of fact are supported by the record and his conclusions of law are consistent with and supported by current case law. Thus, the Court hereby accepts the M&R of the Magistrate Judge and adopts it as the final decision of this Court for all purposes relating to this case.

**IT IS, THEREFORE, ORDERED** that

1. Plaintiff’s Motion for Summary Judgment (Doc. No. 20) is **DENIED**;
2. Defendant’s Motion for Summary Judgment (Doc. No. 22) is **GRANTED**; and
3. Plaintiff’s case against Defendant is **DISMISSED**.

Signed: October 13, 2009



Robert J. Conrad, Jr.  
Chief United States District Judge

